THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2669 OF 2007

DATED 13th FEBRUARY, 2007

Between

Koyyada Kanukamma

... Petitioner

AND

The Mandal Revenue Officer, Karimnagar, and others.

.... Respondents

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.2669 OF 2007

ORDER:

The land in survey Nos.439/F admeasuring Acs.2.00 guntas situated at Chintakunta Village, Karimnagar District, was assigned to the petitioner's husband, who constructed a thatched roof house and eking livelihood by cultivating seasonal crops. After death of husband of the petitioner, the petitioner and her sons are living in the house and growing crops. It is further stated that it is the only shelter and the source of livelihood for them.

The Mandal Revenue Officer, Karimnagar (MRO), first respondent herein, initiated steps for resumption of the lands in accordance with the conditions of assignment. A show cause notice, dated 29.04.2006, was issued calling upon the petitioner to explain as to why the land should not be resumed for public purpose. The petitioner submitted explanation on 09.05.2006 stating that they have been depending on the said land. After considering the explanation submitted by the petitioner, the MRO passed orders on 23.09.2006 ordering resumption of the land for providing house sites to the poor. The MRO also observed that all the petitioners would be paid *ex gratia/*compensation at market value with 30% solatium, and also compensation for trees and structures as per the orders of the High Court. These proceedings of the MRO are assailed in the writ petition.

Learned counsel for the petitioner submits that resumption of land from the petitioner, who was assigned lands, is arbitrary. He also

contents that the petitioner has raised residential house, and if the land is resumed, they will be deprived of their shelter as well as livelihood. He placed reliance on the judgment of the Division Bench of this Court in W.A.No.1251 of 2006 and batch, dated 04.01.2007. **Per contra**, learned Assistant Government Pleader for Revenue (Assignment) submits that when the assignment is made by the State, it is always open to resume the land for public purpose and a writ petition would not lie. He placed reliance on the decision of the Full Bench of Seven learned Judges in **LAO-cum-RDO, Chevella Division, Domalaguda, Hyderabad v Mekala Pandu**[1].

In a recent Judgment in W.P.Nos.1068 and 1069 of 2007, dated 19.01.2007, I considered the question and rejected the writ petition in limine. Instead of again repeating the reasons, it would be sufficient to hold that the State as a grantor of the immovable property can always resume the land from the grantee. Such power cannot be denied to the State as held by the Supreme Court in **Calcutta, South Satara v L.M.Deshpande**[2] and **S.V.V.S.V.Wadia v State of Sourashtra**[3]. Secondly, three Full Benches of this Court in **State of A.P. v P.Peda Chinnayya**[4], **State of A.P. v Bondapalli Sanyasi**[5] and **Mekala Pandu** (supra) have recognized this principle.

In **Mekala Pandu** (supra) while overruling **Bondapalli Sanyasi** (supra), the Full Bench of this Court held:

> In the circumstances, we hold that the assignees of the Government lands are entitled to payment of compensation equivalent to the full market value of the land and other benefits on part with full owners of the land even in cases where the assigned lands are taken possession of by the State in accordance with the terms of grant or patta, though such resumption is for a public purpose. We further hold that even in case where the State does not invoke the covenant of the grant or patta to resume the land for such public purpose and resorts to acquisition of the land under the provisions of the Land Acquisition Act, 1894, the assignees shall be entitled to compensation as owners of the land and for all other consequential benefits under the provisions of the Land Acquisition Act, 1894. No condition incorporated in patta/deed of assignment shall operate as a clog putting any restriction on the right of the assignee to claim full compensation as owner of the land.

It is brought to the notice that feeling aggrieved by **Mekala Pandu** (supra), the State preferred an appeal before the Supreme Court and obtained interim order of stay of further payment of compensation. Therefore, though the petitioner is entitled to claim

compensation as per the provisions of the Land Acquisition Act including solatium, additional compensation and interest, the Mandamus that shall issue to that effect shall be enforceable subject to the Judgment of the Supreme Court in appeal filed against **Mekala Pandu** (supra).

Learned counsel for the petitioner placed reliance on the decision of the Division Bench in W.A.No.1251 of 2006 and batch, dated 04.01.2007. This writ petition is being dismissed following two Judgments of the Supreme Court and three Full Bench decisions of this Court referred to hereinabove. A perusal of the order of the Division Bench cited by the learned counsel would show that the learned single Judge dismissed the writ petitions in limine. The Division Bench while observing that the petitioners (appellants) therein did not get the opportunity to plead and prove their case regarding availability of alternative land, admitted the writ petitions for hearing, and therefore, the same is not of much assistance to the petitioner's counsel.

The writ petition is accordingly dismissed. No costs.

(V.V.S.RAO,J)

13.02.2007.
pln

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[1] 2004 (2) ALD 451 (FB of Seven Judges)

[2] AIR 1964 SC 326

[3] AIR 1967 SC 340

[4] 1996 (2) ALD 1215 = 1997 (1) ALT 498 (FB of Three Judges)

[5] 2002 (2) ALD 1 = 2002 (1) ALT 543 (LB of Five Judges)